

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JUSTIN DONAHUE, et al.,

Plaintiffs,

v.

UNION PACIFIC RAILROAD
COMPANY,

Defendant.

Case No. 21-cv-00448-MMC

**ORDER DENYING PLAINTIFFS'
MOTION FOR RELIEF FROM
JUDGMENT; VACATING HEARING**

Before the Court is plaintiffs' "Motion for Relief from Judgment Under Fed. R. Civ. P. 59 and 60," filed October 14, 2022, whereby plaintiffs seek relief from the Judgment filed September 19, 2022, in the above-titled action.¹ Defendant has filed opposition, to which plaintiffs have replied. Having read and considered the papers filed in support of and in opposition to plaintiffs' motion, the Court deems the matter suitable for decision on the parties' respective written submissions, VACATES the hearing scheduled for November 18, 2022, and rules as follows.

For the reasons stated by defendant, the Court finds plaintiffs have failed to show good cause exists for an order either altering/amending the Judgment, see Fed. R. Civ. P. 59(e), or setting aside the Judgment, see Fed. R. Civ. P. 60(b). In particular, as defendant argues, (1) plaintiffs have failed to show defendant engaged in a fraud on the court (see Def.'s Opp. at 5:2-4, 8:9-9:3), (2) the evidence plaintiffs now offer to attempt to


¹ The Judgment was entered on the Court's Order Granting Defendant's Motion for Summary Judgment, filed September 16, 2022.

1 establish a triable issue of fact could have been submitted in opposition to defendant's
2 motion for summary judgment but was not (see id. at 5:6-12, 6:13-27, 9:4-17), (3) the
3 evidence belatedly offered by plaintiffs, even if considered, does not create a triable issue
4 of fact (see id. at 9:18-15:16, 23-27), (4) plaintiffs have not shown the Court erred in its
5 consideration of the evidence that was presented in connection with the motion for
6 summary judgment (see id. at 15:17-16:17, 27-28), and (5) plaintiffs have failed to show
7 the existence of any extraordinary circumstance warranting vacatur of the Judgment (see
8 id. at 16:18-17:12).

9 Accordingly, plaintiffs' motion for relief from the Judgment is hereby DENIED.

10 **IT IS SO ORDERED.**

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12 Dated: November 10, 2022

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14 MAXINE M. CHESNEY
15 United States District Judge
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